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THOMPSON HINE L.L.P.  
2000 COURTHOUSE PLAZA , N.E.  
10 WEST SECOND STREET  
DAYTON, OH 45402

EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/057,313

Applicant(s)  
McCown et al

Examiner  
Steven McAllister

Art Unit  
3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 27, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21-28, 32-35, and 37-54 is/are pending in the application.
- 4a) Of the above, claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19, 21-28, 32-35, and 37-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 16-19, 21-35 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of Backteman et al and Charles.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses individually lifting containers comprising strapped pallets (col. 1, lines 28-30), transporting them with the forklift onto a ship, and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and loading freight into that inner volume or a vehicle with a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body. Backteman et al show securing freight containers C with outer walls defining an inner volume (see Fig. 1). Backteman et al inherently show loading freight into the inner volume since said containers function by holding freight inside their volume. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Freeman by using the containers of Backteman et al to provide for more secure stacking. Charles shows a vehicle with a gripper including a spreader, the gripper capable of being raised and

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lowered, rotated and inclined relative to the body. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman by using the vehicle of Charles in order to allow horizontal movement of the container without moving the body of the vehicle.

Alternatively, Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses individually lifting containers comprising strapped pallets (col. 1, lines 28-30), transporting them with the forklift onto a ship, and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and loading freight into that inner volume or a vehicle with a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body. Backteman et al show securing freight containers C with outer walls defining an inner volume (see Fig. 1). Backteman et al inherently show loading freight into the inner volume since said containers function by holding freight inside their volume. Backteman et al further show a gripper including a spreader attachment (see Fig. 1) used to lift the containers. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Freeman by using the containers and gripper of Backteman et al to provide for more secure stacking. Charles shows a vehicle capable of raising, lowering, rotating and inclining the gripper relative to its body. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by using the vehicle of Charles in order to allow for more flexible movement of the container without moving the body of the vehicle.

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Alternatively, Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses individually lifting containers comprising strapped pallets (col. 1, lines 28-30), transporting them with the forklift onto a ship, and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and loading freight into that inner volume or a vehicle with a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body. Backteman et al show securing freight containers C with outer walls defining an inner volume (see Fig. 1). Backteman et al inherently show loading freight into the inner volume since said containers function by holding freight inside their volume. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Freeman by using the containers of Backteman et al to provide for more secure stacking. Charles shows a vehicle with a gripper including a spreader (see Fig. 5 and col. 3, lines 30-35), the gripper capable of being raised and lowered, rotated and inclined relative to the body. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman by using the vehicle of Charles in order to allow horizontal movement of the container without moving the body of the vehicle.

As to claim 17, it is noted that Backteman et al show securing the containers to the deck by semiautomatic twistlocks.

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As to claims 18 and 19, it is noted that Bucketman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Bucketman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers.

As to claim 22, it is noted that Freeman discloses individually lifting of the containers (col. 1, lines 31-32) and he discloses transporting them with the forklift from the ship and stacking them the dock in a warehouse (col. 1, lines 31-32). Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3).

As to claim 23, Freeman in view of Bucketman et al and Charles show all elements of the claim except securing the ramp to a longitudinal rail. However, it is old and well known in the art to secure a ramp to a longitudinal rail (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 24, it is noted that Bucketman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Bucketman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers. Freeman additionally discloses offloading the ship with a reach stacker comprising a forklift (pg. 1, col. 1, lines 31-32) and towing to a destination site (p. 1, col. 2, line 24).

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As to claim 25, Freeman also inherently discloses repeating the lifting step since multiple forklift trips are necessary to load a large number of loads on a ship.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

As to claim 26, it is noted that in loading a ship it is inherent that the forklift release the container or one forklift would be required for each container.

As to claim 33, it is inherent that the container is at least partially entered by a workman or vehicle in order to load since the workman or vehicle must handle the load.

As to claim 34, it is noted that as broadly claimed a forklift is a lift stacker since it performs all functions associated with the term.

As to claim 35, it is noted that Freeman discloses towing the marine vessel with the containers on the deck and that Bucketman et al show securing the containers to the deck.

As to claim 37, raising, lowering, rotating and inclining the gripping portion for each container is inherent in the reach stacker of Charles.

As to claims 38 and 39, each container has a pair of receptacles for spreader attachment adjacent the top edge of the container (Fig.1).

As to claim 40, Freeman in view of Bucketman et al and Charles show all elements of the claim except securing the ramp with a longitudinal rail using a downwardly extending lip. However, it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly extending lip (such as hooking the lip of a ramp over a longitudinal rail on the back

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of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al and Charles as applied to claim 22 above, and further in view of Teubert.

Freeman in view of Backteman discloses all elements of the claim except securing the ramp to a longitudinal rail on the ship. Teubert discloses securing ramp J to the longitudinal rail seen in Figs. 1 and 2. It would have been obvious to one of ordinary skill in the art to modify Freeman by securing the ramp to a longitudinal rail in order to make the ramp's connection more stable and avoid accidents with the forklifts.

4. Claims 21, 25, 26, 32, 34, and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

As to claim 25, Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); repeated lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see



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Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein or that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

As to claim 26, it is noted that in the method of Freeman in view of Kalmar, it is inherent that the vehicle release the container since the containers must be released to be stacked as shown.

As to claim 32, it is noted that Kalmar shows each container having a bottom, roof, and a plurality of side walls.

As to claim 34, it is noted that Freeman in view of Kalmar shows a reach stacker.

As to claim 49, it is noted that Kalmar shows that the vehicle includes wheels which are in contact with the support surface during lifting and positioning stages (see photos).

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As to claim 50, it is noted that Kalmar shows that the lifting and positioning steps include moving the gripping portion relative to the body portion without the use of any outriggers (see photos).

As to claim 51, it is noted that Kalmar shows extending the boom during positioning and lifting.

As to claim 52, it is noted that the vehicle of Kalmar does not include outrigger supports.

As to claim 53, it is noted that Kalmar shows stacking at least three containers high (e.g., p. 9).

5. Claims 35 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Kalmar as applied to claim 25 above, and further in view of Backteman et al (3,691,595).

As to claim 35, it is noted that Freeman in view of Kalmar discloses towing the marine vessel since it discloses a barge and barges are towed. It does not disclose securing containers to a support surface. Backteman et al show securing the containers to the support surface via twist-locks. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers in order to prevent the stacks of containers from toppling over.

As to claim 54, Freeman in view of Kalmar and Backteman et al show all elements of the claim except a pointed bow on the ship. However, it is notoriously old and well known in the art

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to make a marine vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by using such a vessel in order to more easily cut through the water.

6. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar) and Backteman et al.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; loading freight in the inner volume of the containers; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; securing the container to the deck; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said

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gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface during lifting and positioning (see photos of Kalmar). Kalmar inherently shows loading the container since discusses loaded containers and the step of loading the container must inherently be performed (p. 11, line 2). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture. Backteman et al show securing the containers to the deck via twistlocks (col. 1, lines 39-40; abstract, Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers as taught by Backteman et al in order to prevent the stacks of containers from tipping over.

7. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar) and Backteman et al.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls

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defining an inner volume and having freight loaded therein; loading freight in the inner volume of the containers; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; securing the container to the deck; or that lifting and positioning are carried out without the use of outriggers. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that lifting and positioning are carried out without the use of outriggers (see photos of Kalmar). Kalmar inherently shows loading the container since discusses loaded containers and the step of loading the container must inherently be performed (p. 11, line 2). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture. Backteman et al show securing the containers to the deck via twistlocks (col. 1, lines 39-40; abstract, Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers as taught by Backteman et al in order to prevent the stacks of containers from tipping over.

As to claim 43, it is noted that Kalmar shows that positioning and lifting includes extending a boom of the vehicle (see photos).

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8. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar) and Backteman et al.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; loading freight in the inner volume of the containers; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; securing the container to the deck; or that the vehicle does not have outrigger supports. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the vehicle does not have outrigger supports (see photos of Kalmar). Kalmar inherently shows loading the container since discusses loaded containers and the step of loading

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the container must inherently be performed (p. 11, line 2). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture. Backteman et al show securing the containers to the deck via twistlocks (col. 1, lines 39-40; abstract, Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers as taught by Backteman et al in order to prevent the stacks of containers from tipping over.

9. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers (col. 1, lines 28-30), transporting them with a vehicle from the ship to a warehouse on the dock, positioning them and placing them there (col. 1, lines 30-32). Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see

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e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface during lifting and positioning (see photos of Kalmar). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

10. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers (col. 1, lines 28-30), transporting them with a vehicle from the ship to a warehouse on the dock, positioning them and placing them there (col. 1, lines 30-32). Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; or that the lifting and placing steps are carried out without the use of outrigger supports. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that



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the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that lifting and positioning are carried out without the use of outrigger supports (see photos of Kalmar). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

11. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers (col. 1, lines 28-30), transporting them with a vehicle from the ship to a warehouse on the dock, positioning them and placing them there (col. 1, lines 30-32). Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; or that the lifting and positioning steps include extending a boom of the vehicle. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the

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vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that lifting and position steps include extending a boom of the vehicle (see photos of Kalmar). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 48, it is noted that Kalmar shows that the vehicle does not have any outrigger supports (see photos).

### *Response to Arguments*

12. Applicant's arguments filed 2/11/03 have been fully considered but they are not persuasive.

As to the 35 USC 103 rejection of claims 16-19, 21-35 and 37-40, applicant argues that the combination of Freeman in view of Backteman et al and Charles is improper.

First, the applicant argues that the motivation, "to all horizontal movement of the container without moving the body of the vehicle" is improper because the vehicle of Charles cannot move a container horizontally without moving the body. However, it is noted that the container can be moved horizontally by rotating the turret without moving the body of the vehicle (Figs. 1, 2). The boom can also be extended to create horizontal movement of the container without moving the body.

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Next, the applicant argues that the combination is not functional because it requires the vehicle of Charles to pick up the pallets of Freeman from above. However, it is noted that the combination Freeman in view of Backteman and Charles modifies the "providing containers" step through the teachings of Backteman et al. The rejection states "Backteman et al show securing freight containers C with outer wall defining an inner volume". Therefore, the containers of the method taught Freeman in view of Backteman and Charles have outer walls defining an inner space and are not the pallets of Freeman.

Next, the applicant argues that outriggers must be extended when lifting loads or extending the boom. However, it is noted that this is relevant only for the newly added claims 41-54 which recite lifting and positioning without the use of outriggers. The vehicle of Charles is not used in the rejection of these claims.

Next, applicant argues that the vehicle of Charles lacks mobility because "the vehicle cannot be moved when the boom is extended", because it would have to be turned 90 degrees to the load to pick it up, because it has to be driven in a generally straight line, and because it would require space on either side for the supports. First, the argued limitations are not claimed in any claim. Second, it is not clear from the reference that the vehicle cannot be moved when the boom is extended, cannot maneuver a load directly in front of it, and has any particularly large safe turning radius. Figures 2 and 3 show the vehicle immobile, but it also shows the turret turned 90 degrees from the longitudinal axis of the vehicle. Fig. 1 shows the vehicle with a load aligned with the longitudinal axis. With the turret aligned with the longitudinal axis, it is

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substantially similar to a reach stacker of Kalmar. It is not apparent from the reference that the vehicle could not pick or place a load in such a configuration. Regarding the argued lack of mobility's impact on the motivation to use the vehicle, it is noted that the motivation does not hinge on any particular level of mobility of the vehicle. Rather, the stated motivation is that the load can be moved horizontally without even moving the body of the vehicle. So, even assuming that the vehicle fell below some particular level of mobility, there is still motivation to combine the references.

Next applicant argues that the combination fails to show a gripping portion rotatable relative to the body of the vehicle. However, it is noted that the gripper 9,15 of Charles can be rotated with respect to the body 1, 3 by rotating the turret section 4.

Next, applicant argues that the combination is improper because the forklift of Freeman would not be operable to load the containers of Backteman et al. However, it is noted that the rejection is also in view of Charles and that, as modified by Charles, the vehicles used to load are the vehicles of Charles.

Next, the applicant argues that the combination is improper because the ramp of Freeman would not support the weight of a larger container of Backteman. First, the applicant suggests that the size of the containers contemplated by Backteman are at least 20' x 8' x 8' based on ISO containers found on a Conrail web site. However, Backteman states that ISO containers are found in several sizes (col. 1, lines 33-37) and in no way recites a size of the container. It is further noted that containers of much smaller size, such as 8' x 8' x 8' are shown on the Seabox

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website ([http:// www.seabox.com/CA\\_01.html](http://www.seabox.com/CA_01.html)). Therefore, the applicant's argument regarding the size and weight of the load appear to based on speculation and not on the references presented in the rejection. Further, it is inherent in the modification of method of Freeman by Backteman et al and Charles that it is taught that the structure over which the loaded vehicle travels and on which the containers are placed will support the weight placed on them since that is shown in the references.

### ***Conclusion***

13. Applicant's amendment (amended claims 25 and 35, as well as new claims 41-54) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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14. This application contains claims 1-15 drawn to an invention nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

  
Steven B. McAllister

April 1, 2003